

LEGAL UPDATE

DOL Issues Five New Fair Labor Standards Act Opinion Letters

On June 25, 2020 the U.S. Department of Labor (DOL) published five new opinion letters. Opinion letters provide the DOL's official position on how labor and employment standards apply in specific situations.

The new letters clarify compliance issues with the federal Fair Labor Standards Act (FLSA).

Outside Sales Exemption

[FLSA2020-6](#) answers the question whether salespeople who travel to different locations to sell products using their employer's mobile assets qualify for the exemption.

[FLSA2020-8](#) addresses whether salespeople who set up displays and perform demonstrations at various retail locations not owned, operated or controlled by their employer to sell the employer's products qualify for the exemption.

Wage Payment Requirements

[FLSA2020-7](#) is specific to the automobile industry and addresses whether a manufacturer's direct payments to a dealership employee for work done on behalf of the dealership may count toward the employee's minimum wage.

[FLSA2020-10](#) addresses the application of the retail or service commission sales exemption, where less than half of an employee's compensation in the relevant representative period consists of commissions.

Administrative Employee Exemption

Finally, and relevant during the current pandemic, [FLSA2020-9](#) addresses whether emergency-management coordinators employed by a county government qualify for the administrative exemption.

Next Steps for Employers

Employers that rely on opinion letters may be able to establish a "good faith defense" under the law.

As a result, employers should review the scenarios discussed in these letters and determine whether this new guidance affects their current employee classification and payroll practices.

The public can search for existing opinion letters by keyword, year, topic and a variety of other filters on the DOL's [website](#).

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